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## Early Learning & Children's Services Committee

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### E2SSB 5943

**Brief Description:** Requiring performance-based contracts for the provision of child welfare services.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Hargrove, Stevens, Fairley, Regala, McAuliffe, Jarrett, Tom, Brandland, Kauffman, Kline, Delvin and Shin).

#### Brief Summary of Engrossed Second Substitute Bill

- Establishes a child welfare transformation committee to develop a plan for the phased implementation of privatizing the delivery of child welfare services under performance-based contracts.
- Directs the Department of Social and Health Services (DSHS) to convert current contracts to performance-based contracts and to begin contracting for the delivery of child welfare case management functions beginning December 1, 2010.
- Prohibits the DSHS from directly providing child welfare services after July 1, 2014, except in emergency situations.

**Hearing Date:** 3/24/09

**Staff:** Sydney Forrester (786-7120)

#### **Background:**

The Children's Administration (CA) within the Department of Social and Health Services (DSHS) provides child welfare services to children and their families, including in-home services, out-of-home care, case management, and adoption services as well as the legal case management of children's dependency case. Historically, about 30 percent of child welfare services have been provided by licensed child-placing agencies with whom the CA contracts.

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

These contracts, however, are not performance-based, making it difficult to tie accountability for performance with the desired system outcomes of the child welfare system.

The CA contracts with numerous private agencies across the state to provide a host of direct services to children and their families, such as in-home prevention and intervention services, parenting education, and family preservation and reconciliation services. There are currently about 1,000 contracts with different providers across the state, and these contracts are managed regionally and at headquarters.

Unlike child welfare services, child protective services are provided exclusively by the CA. Child protective services includes the receipt, investigation, and response to allegations of child abuse and neglect. Licensing of child-serving agencies and facilities is provided by the Division of Licensed Resources (DLR) within the DSHS. For example, the DLR licenses foster homes, child-placing agencies, group homes, youth shelters, and crisis residential centers.

Partners for Our Children (POC) is an independency public-private partnership aimed at improving Washington's child welfare system. The partnership consists of the DSHS, the University of Washington School of Social Work, and the regional philanthropic community.

### **Summary of Bill:**

Beginning December 1, 2010, the CA must begin converting its existing contracts with child-placing agencies into performance-based contracts. The performance-based contracts used by the CA must be structured to hold the private agencies accountable for achieving the following goals in order of importance:

- child safety;
- reunification of the child with the parents; and
- child permanency with a preference for reunification.

The Child Welfare Transformation Committee (Committee) is established with membership as follows:

- four private agencies, two of which are headquartered in western Washington and two of which are headquartered in eastern Washington. Two of the agencies must have an annual budget of over 1 million state-contracted dollars and two of the agencies must have an annual budget of less than 1 million state-contracted dollars, to be appointed jointly by the President of the Senate and the Speaker of the House;
- the Assistant Secretary of the Children's Administration;
- two CA regional administrators, one from eastern Washington and one from western Washington;
- the CA Division of Licensed Resources Administrator;
- two nationally recognized experts in performance-based contracting, to be appointed jointly by the President of the Senate and the Speaker of the House;
- the Attorney General (AG), or the AG's designee;
- a representative of the collective bargaining unit that represents the largest number of CA employees;
- a representative of the Office of the Family and Children's Ombudsman;
- four representatives from federally recognized Indian Tribes, two of which must operate child welfare programs;

- two present or former superior court judges with significant experience in dependency matters, selected by the Superior Court Judge's Association; and
- one representative of POC.

The POC representative will convene the initial meeting by June 15, 2009. The chair or co-chairs of the Committee will be selected from among the Committee's membership by majority vote of those present at the initial meeting of the Committee. The Committee may establish advisory committees as necessary. Staff support for the Committee will be provided jointly by the POC and legislative staff. The Committee is subject to the Open Public Meetings Act and the Ethics in Public Service statutes. Administrative costs for the Committee will be paid from private funds. The Committee must develop a transition plan with recommendations to the Legislature for the provision of child welfare services by private supervising agencies. The plan must include the following:

1. a model or framework for performance-based contracts to be used by the CA that must include the following:
  - the target population;
  - the contract referral and exit criteria;
  - the services to be provided by the contractor;
  - the roles and responsibilities of public and private agency workers in key case decisions;
  - contract performance and case outcomes expectations;
  - the method by which to measure whether the contractor has met the goals in order of importance; and
  - incentives to meet program goals;
2. a method by which the CA can substantially reduce the current number of contracts;
3. a method by which clients will access community-based services, how supervising agencies will engage other services or form local service networks, develop subcontracts, etc.;
4. contract monitoring and evaluation procedures to ensure children and families are receiving timely and quality services from the supervising agencies;
5. a process by which to expand the capacity of private agencies to meet the service needs of children and families in a performance-based contractual arrangement;
6. a method by which supervising agencies can expand services in underserved areas of the state;
7. appropriate reimbursement levels for supervising agencies;
8. a method to enhance existing data systems;
9. a financing arrangement that examines different payment methods and ways to reduce contractor's liability;
10. a description of how the transition may affect the state's ability to obtain federal funding;
11. a description of the costs of the transition, including:
  - the initial startup costs and mechanisms to periodically assess the overall adequacy of funds;
  - the fiscal impact of the changes;
  - the feasibility of the plan; and
  - the impact of the plan on DSHS employees during the transition; and
12. identification of any statutory or regulatory changes needed.

The Committee must also recommend how to implement its plan in stages across the state so that full implementation is accomplished by July 1, 2014. The Committee must report, in writing, to the Legislative Children's Oversight Committee on a quarterly basis starting on June 30, 2009, and by June 1, 2010, must submit its recommendations for statewide, staged implementation.

The Committee expires June 30, 2013.

Beginning July 1, 2014, all child welfare services to children for whom the CA has legal custody under a child dependency order must be provided by supervising agencies under performance-based contracts. Child protective services and licensing of child serving agencies and facilities will remain the responsibility of the CA and will not be contracted.

*A supervising agency* is defined as an agency licensed by the DSHS or an Indian tribe that has entered into a performance-based contract with the DSHS to provide child welfare services. After July 1, 2014, the CA may not directly provide child welfare services except in an emergency or as a provider of last resort. In this situation, the DSHS is also considered a supervising agency. The CA is considered a provider of last resort when it is unable to contract with a private agency to provide services in a particular geographic area or the contract with the private agency is terminated by the CA or the contractor. After July 1, 2014, the CA is responsible only for monitoring the quality of services for which it has contracted and ensuring that those services comply with federal and state laws.

The DSHS must give a preference to private non-profit agencies when entering into performance-based contracts. As staff vacancies occur due to voluntary employee departures, if the DSHS decides the vacant positions should be filled with existing staff because there are insufficient supervising agency resources available in that region, the DSHS is to then determine if there are other services in the region where the work can be performed by supervising agencies. The AG's Office must provide legal representation to the private agencies in child dependency cases. The provisions in the Civil Service Act regarding the specific requirements around state employees bidding to provide services do not apply.

**Appropriation:** None.

**Fiscal Note:** Requested on March 17, 2009.

**Effective Date:** The bill takes effect on July 1, 2011, except for section 7, establishing the child welfare transformation committee, which takes effect immediately; and sections 1-6, relating to the phased implementation of contracting out all child welfare services, which take effect July 1, 2010.